

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**AMAZON.COM SERVICES LLC**

**Employer**

**and**

**Case 29-RC-288020**

**AMAZON LABOR UNION**

**Petitioner**

**ORDER DIRECTING HEARING  
AND NOTICE OF HEARING ON OBJECTIONS**

Based on a petition filed on December 22, 2021, and pursuant to a Stipulated Election Agreement, an election was conducted on March 25, 26, 28, 29, and 30, 2022<sup>1</sup> to determine whether a unit of employees of Amazon.com Services LLC (the Employer) wished to be represented for purposes of collective bargaining by Amazon Labor Union (the Petitioner). That voting unit consists of:

INCLUDED: All hourly full-time and regular part-time fulfillment center associates employed at the Employer's JFK8 building located at 546 Gulf Avenue, Staten Island, New York.

EXCLUDED: Truck drivers, seasonal employees, temporary employees, clerical employees, professional employees, managerial employees, engineering employees, maintenance employees, robotics employees, information technology employees, delivery associates, loss prevention employees, on-site medical employees, guards and supervisors as defined by the Act.

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<sup>1</sup> All dates hereinafter are in 2022, unless otherwise specified.

The Tally of Ballots prepared at the conclusion of the election shows the following:

Approximate number of eligible voters .....	8325
Number of void ballots .....	17
Number of votes cast for Petitioner .....	2654
Number of votes cast against participating labor organization(s)...	2131
Number of valid votes counted .....	4785
Number of challenged ballots .....	67
Number of valid votes counted plus challenged ballots .....	4852

Challenges were not sufficient in numbers to affect the results of the election.

On April 8, the Employer timely filed objections to conduct affecting the results of the election. The objections are as follows:

### **THE OBJECTIONS**

1. The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the Petitioner when it sought a 10(j) injunction in *Drew-King v. Amazon.com Services LLC*, E.D.N.Y., No. 22-01479, on March 17, 2022.
2. The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the Petitioner when it delayed investigating numerous unmeritorious and frivolous unfair labor practice charges that were pending during the critical period rather than properly dismissing them or soliciting withdrawals.
3. The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the Petitioner when it allowed the Petitioner's petition in Case 29-RC-288020 to proceed to election knowing that the Petitioner did not have the required 30% showing of interest in the petitioned-for unit.
4. The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the Petitioner when it impermissibly allowed the Petitioner for more than a month (from December 22, 2021 to January 25, 2022) to continue gathering and submitting late signatures to bolster its insufficient showing of interest.
5. The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the Petitioner when it unilaterally altered the scope and size of the petitioned-for unit for the purpose of investigating the Petitioner's showing of interest.

6. The Region failed to protect the integrity of its procedures when it deviated from the Casehandling Manual on Representation Proceedings by failing to staff the election adequately. Among other things, the Region provided an insufficient number of Board Agents for check-in and failed to provide adequate equipment for the election, supplying only three voting booths for an election with more than 8,000 potential voters.
7. The Region failed to protect the integrity of its procedures when it turned away voters when they attempted to vote during open polling sessions, and told voters they were only being allowed to vote in alphabetical order.
8. The Region failed to protect the integrity of its procedures when it failed to control media presence in and around the voting area.
9. The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the Petitioner when it allowed (b) (6), (b) (7)(C) Petitioner (b) (6), (b) (7)(C) to loiter around the polling location and within the “no-electioneering zone” established by the Region on multiple occasions during polling times, where (b) (6), (b) (7)(C) was able to observe who participated in the election.
10. The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the Petitioner when it directed voters to cover up “Vote NO” shirts, but allowed other voters to wear Petitioner shirts and other Petitioner paraphernalia in the polling area.
11. The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the Petitioner when it repeatedly allowed a Petitioner’s observer to audio/video record the check-in tables and voting area on his mobile phone while serving as an observer during multiple voting sessions.
12. The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the Petitioner when it solicited unfair labor practice charges against the Employer in the presence of voters in the polling area while the polls were open.
13. During the critical period and while the polls were open, the Petitioner’s members and agents harassed and threatened physical violence and other reprisals against employees who were not supportive of the Petitioner’s cause.
14. The Petitioner improperly promised employees in the final days of the campaign that it would not charge them dues unless and until the Petitioner secured a raise for employees during collective bargaining. Prior to and during the critical period, the Petitioner was clear that it would charge employees dues immediately following a successful vote. After employees expressed reluctance to pay dues, the Petitioner directly contradicted its earlier statements and asserted for the first time, late in the

campaign, that it would not charge dues unless and until it secured higher wages in contract negotiations with the Employer.

15. The Petitioner engaged in repeated and deliberate attempts to interfere with and “shut down” the Employer’s small group meetings, solicited employees during the Employer’s educational meetings in violation of the Employer’s policies, and destroyed the Employer’s campaign materials.
16. (b) (6), (b) (7)(C) Petitioner organizers repeatedly trespassed on the Employer’s property.
17. The Petitioner unlawfully polled employee support, engaged in unlawful interrogation, and created the impression of surveillance during the critical period.
18. After disparaging—and celebrating its independence from—established, institutional unions for months leading up to the vote, the Petitioner’s President and attorney asserted in 11th hour communications to voters that the Petitioner was backed by established unions with millions of union members, that those more-established unions were actively involved in the Petitioner’s campaign, were providing funding and other services to the Petitioner, and would also be involved in contract negotiations if the Petitioner was elected. These misrepresentations are objectionable conduct because, under the circumstances, employees were unable to discern the truth of these statements regarding which labor organization would be representing them.
19. Petitioner’s supporters misled employees by telling them that they would lose their benefits if they did not support the Petitioner. Relying on language barriers and misrepresentations of the election processes, during the critical period, Petitioner’s organizers specifically targeted Amazon employees who recently immigrated from (b) (6), (b) (7)(C) and threatened that their continued benefits were contingent on their support of the Petitioner. While the Petitioner’s conduct in this regard is a deplorable scare tactic targeted at an immigrant population, these false threats also constitute objectionable conduct because they reasonably tended to coerce employees into supporting the Petitioner solely out of fear that they would lose their benefits.
20. The Petitioner deployed a light projector outside the JFK8 facility that projected mass messaging on the façade of the JFK8 building immediately prior to the election. Late at night on March 23, 2022, and through the early morning hours, after the voting tent was in place, the ALU projected messaging on the front of JFK8 immediately over the polling area which read: “Amazon Labor Union”; “VOTE YES”; “VOTE YES! TO KEEP YOUR PHONES”; “BE THE FIRST IN HISTORY”; “THEY FIRED SOMEONE YOU KNOW”; “THEY ARRESTED YOUR COWORKERS”; and “ALU FOR THE WIN”. The Petitioner’s light projections are also objectionable misrepresentations inasmuch as they caused confusion about the identity of the messenger, suggested that Amazon supported the messaging, and misrepresented the purpose and consequences of the vote. The Petitioner’s light projections also

reiterated the Petitioner's false campaign narrative that the Employer sought the arrest of employees.

21. The Petitioner failed to file forms required by the Labor Management Reporting and Disclosure Act of 1959 ("LMRDA"). The LMRDA requires all unions purporting to represent private sector employees to file, among other things, detailed financial reports. To date, the Petitioner has not filed any financial or other reports required by the LMRDA despite being under a legal obligation to do so. The Petitioner's failure to comply with the LMRDA deprived employees from access to critical financial information about the Petitioner's operations during a critical time period (i.e., whether to vote for them as their bargaining representative).
22. The Petitioner distributed marijuana to employees in return for their support in the election. The Petitioner's distribution of marijuana was an impermissible grant of benefit and interfered with employees' free choice in the election.
23. On (b) (6), (b) (7)(C), Petitioner's (b) (6), (b) (7)(C) posted to (b) (6), (b) (7)(C) social media accounts a video of (b) (6), (b) (7)(C) standing outside the voting area over 20 minutes after voting began and after (b) (6) had told certain employees that the Petitioner would know how they voted. Employees viewing a video of the Petitioner's (b) (6), (b) (7)(C) appearing to stand outside the polling area while the polls were open reasonably tended to coerce and intimidate voters and potential voters and lead them to believe that the Petitioner and (b) (6), (b) (7)(C) was or would surveil them. (b) (6), (b) (7)(C) social media post also reasonably tended to create the impression with voters that the Board supported Petitioner in the election, as it failed to properly police and/or took no actions to remove (b) (6), (b) (7)(C) from the "no-electioneering zone" established by the Board.
24. The Petitioner engaged a camera/documentary crew that maintained a consistent presence in the polling place. Despite being directed to leave the area by the Employer in front of the Board Agent and Petitioner (b) (6), (b) (7)(C) the crew returned several times and filmed employees in line waiting to vote, and employees entering and exiting the voting tent. These actions reasonably tended to coerce and intimidate voters and potential voters and lead them to believe that (b) (6), (b) (7)(C) and the Petitioner would know if or how they voted, and created the impression of surveillance.
25. Petitioner's officials, agents, and supporters, including but not limited to non-employee Petitioner (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) engaged in objectionable conduct, including loitering in the "no-electioneering zone" established by the Board and/or within view of the polling area while polls were open, creating the impression among employees that the Petitioner was surveilling the polling area, and otherwise engaging in electioneering. This conduct reasonably tended to coerce and intimidate voters and potential voters.

On April 8 –the same day the Employer filed its objections – the Employer filed with the Regional Director for Region 29 of the National Labor Relations Board (the Board) a Motion to Transfer Proceedings for a hearing on the Employer’s objections to conduct affecting the results of the election. Among the reasons stated by the Employer in support of its Motion were, “A number of Amazon’s objections assert objectionable conduct by both the Regional Director of Region 29 and various Board Agents who, upon information and belief, work out of the Region 29 office.[footnote omitted]” On April 14, the General Counsel of the Board transferred the case from Region 29 to Region 28 for further proceedings on the Employer’s objections.

### **CONCLUSION AND ORDER**

I have concluded that the evidence described in the offers of proof submitted by the Employer in support of its objections could be grounds for overturning the election if introduced at a hearing. Accordingly, in accordance with Section 102.69(c)(1)(ii) of the Board’s Rules and Regulations,

**IT IS ORDERED** that a hearing shall be held before a Hearing Officer designated by me, for the purpose of receiving evidence to resolve the issues raised with respect to the objections. At the hearing, the parties will have the right to appear in person to give testimony, and to examine and cross-examine witnesses.

Upon the conclusion of the hearing, the Hearing Officer shall submit to me and serve on the parties a report containing resolutions of the credibility of witnesses, findings of fact and recommendations as to the disposition of the objections.

### **NOTICE OF HEARING**

Starting at 10:00 a.m. (Eastern Time) on May 23, 2022, the hearing on objections as described above will be conducted before a Hearing Officer of the National Labor Relations Board and shall continue on consecutive days thereafter until concluded unless I determine that

extraordinary circumstances warrant otherwise. The hearing will be conducted by videoconference using the Zoom platform or other platform deemed appropriate for this purpose by the Hearing Officer. The Hearing Officer will email the parties the information necessary to participate in the videoconference hearing.

Dated in Phoenix, Arizona on the 29<sup>th</sup> day of April, 2022.

/s/ **Cornele A. Overstreet**

Cornele A. Overstreet, Regional Director  
National Labor Relations Board, Region 28